IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE.

WRIT PETITION NO. 1071 OF 2004

Nathmal Sitaram Maniyar ..... Petitioner.

versus

The Commissioner,)
Malegaon Municipal Corporation)
Dist. Nashik and others .....) Respondents.

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Shri C.G. Gavnekar for the petitioner.
Shri S.M. Sabrud for Respondent no.1.
Shri S.R. Nargolkar AGP for State.

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CORAM ; V.G.PALSHIKAR &
MRS. RANJANA DESAI, JJ.

DATED; 16TH AUGUST, 2004.

P.C.;

1. By this petition, the petitioner seeks a mandamus directing the respondent to release the land belonging to the petitioner from reservation as affected under the MRTP Act.

2. The facts relevant for the purposes of adjudication of this petition stated briefly are that:

The petitioner is the owner of Survey No. 99 Site No.142 and 145 situated at Malegaon Municipality

limits. On 14-8-1970 the first development plan in the city of Malegaon was published. It was revised from time to time and on 1-4-1986 in one such reversion, site No.142 and 145 belonging to the petitioner were included in the final plan or revised development plan and was reserved for High School and play ground.

3. On 6th July 1998, 5700 sq. mtrs. of the land from out of the land mentioned above was sold to the petitioner and some others. After this purchase on 17-10-2002 the petitioner issued a notice under section 127 of the MRTP Act 1966 requiring the respondent to take appropriate action under that section or deserve the plot of land as contemplated by section 127 of the Act. Inspite of the period mentioned in section 127 having passed, no acquisition proceedings were commenced, no purpose was sought to be made by any other means and dereserve was also not effected. It is therefore prayed by this petition that the reservation as made by the respondent should be quashed as provided by provisions of section 127.

4. This Court in W.P. no.4517/03 has taken a view that what is required to be done under section 127 is commencement of proceeding for acquisition of land. Failure to do so within the time stipulated by section

127 will result in the reservation being deemed to have been lapsed. There is nothing on record to show that any steps much less proceedings for acquisiton has been started by the respondent Municipality in view of the judgment in the writ petition mentioned above, and hence this petition is liable to be allowed. Hence rule made absolute in terms of prayers (a)(b) and (c). There shall be no order as to costs.

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